

STATEMENT
OF
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NATIONAL AUTOMOBILE DEALERS ASSOCIATION
BEFORE THE
U.S. HOUSE ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEE ON COMMERCE, TRADE AND
CONSUMER PROTECTION
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INTRODUCTION

On behalf of the National Automobile Dealers Association, I appreciate the opportunity to discuss the state of the automotive maintenance and repair industry. My name is Robert Brazier, and I serve as the Chief Legislative Counsel, a post I have held for the past six years.

FRANCHISED DEALERS AND AFTERMARKET SERVICE PROVIDERS

The National Automobile Dealers Association (NADA) is the national trade association that represents 20,000 franchised dealerships with over one million employees, about half of whom work in dealership service and parts departments. In 2004, franchised automobile dealers provided 369,125 service stalls, employed 279,150 technicians, and carried a parts inventory valued at \$5.6 billion. Franchised dealerships located throughout the country and in all your congressional districts have many of the best-trained and best-equipped automotive technicians maintaining, servicing and repairing today's sophisticated and complex motor vehicles.

Diagnosing and fixing today's automobiles requires that shops invest significantly in information, equipment, and training. Dealerships make such investments because vehicle manufacturers and the motoring public demand nothing less. Automobiles will become even more complex in the future, requiring even more sophisticated, highly trained technicians. While diagnostic tools are necessary for repair work, they alone are not sufficient. Trained technicians must still analyze the information tools provide and, often through the process of elimination, pinpoint the exact problem. Tools often help

find problems generally, but technicians solve them. For all these reasons, successful repair facilities in today's world must make continuing investments in tools, training and information to adequately serve their customers.

In addition to performing warranty and other repairs on their franchised vehicles, franchised dealerships are increasingly engaged in the service of used vehicles for which they do not hold a franchise. In that situation, an automobile dealer stands in the same place as an aftermarket service provider, needing to make choices about the kind and types of maintenance and repair services they want to pursue based on the financial investment that may be required. Accordingly, franchised automobile dealers have a unique perspective to view the automotive repair industry, both as a franchised dealer and an aftermarket service provider. Viewed from both perspectives, there is no question access to the information and tools necessary to service and repair motor vehicles has never been better if a service provider is willing to make the requisite investments.

ACCESS IN THE AUTOMOTIVE REPAIR INDUSTRY

Of the nearly 500 million non-warranty service events annually, the aftermarket performs roughly 75 percent of the service, while franchised dealers handle the other 25 percent. The aftermarket has the ability to maintain that high level because it has access to all of the following:

- Manufacturer specific service information provided through third-party information providers like Mitchells, Alldata, and Identifix;

- Manufacturer specific websites containing service information;
- Manufacturer specific training materials;
- Manufacturer specific diagnostic tools covering both emissions and non-emissions functions;
- Diagnostic tools developed from tool information provided to toolmakers by vehicle manufacturers;

Motor vehicle manufacturers have an economic interest in providing this level of access.

Motor vehicle manufacturers want their vehicles repaired correctly by well-equipped and trained service technicians. The simple fact is that a frustrated or dissatisfied customer is not likely to be a repeat buyer.

NASTF

The National Automotive Service Task Force (NASTF) was initiated in 2000 to facilitate the flow of automotive service information, training information, tools, and tool information to market participants. Stakeholders in NASTF have developed it into an effective information clearinghouse that also provides for an inquiry system in cases where a gap in information is suspected. Of the roughly 500 million non-warranty service events performed in 2004, NASTF was called upon to resolve only 48 inquiries. For those doing math, 48 out of 500 million is .000000096.

Despite the facts about access and the operations of NASTF, large parts distributors, under the Coalition for Automotive Repair Equality (CARE) along with the Automotive

Aftermarket Industry Association (AAIA), are seeking a Federal government takeover of the automotive repair industry on the premise that information is not available or being withheld. Under the legislation supported by these parts distributors, but opposed by independent garages of the Automotive Services Association (ASA), the Federal Trade Commission would engage in rulemaking to develop a government controlled regime to oversee the flow of vehicle service, training and tool information. Frankly, it remains difficult for independent service providers to comprehend how a Federal government entity without any experience in automotive repair issues would do a better job than the private sector addressing these issues. Rather than working to enhance NASTF for the betterment of all service providers, CARE and AAIA choose instead to pour resources into legislation that seeks Federal regulation and enforcement.

BETTER BUSINESS BUREAU (BBB) FACILITATION

During August and September of this year, the Better Business Bureau convened a facilitation with representatives of NADA, ASA, CARE, AAIA, the Alliance of Automobile Manufacturers (AAM), and the Association of International Automobile Manufacturers (AIAM). That facilitation was hamstrung from the beginning by CARE's refusal to even discuss the nature and scope of the issue we reportedly were trying to solve. Nevertheless, the BBB's letter of October 3 noted agreement of the parties on many core issues "including strengthening and funding of the NASTF process, rigorous time frames that would need to be observed, dispute resolution procedures, and many remedies for a third party dispute resolution framework."

The October 3 letter also noted several issues that were not resolved. While NADA actively sought resolution of those issues, CARE's demand for a controlling stake in NASTF's board prevented any agreement from taking place. No one interested party, particularly parts distributors, should have a controlling interest in NASTF. Any board of NASTF should be balanced with all stakeholders, including vehicle manufacturers, service providers, information providers, toolmakers, and training providers. Notably, a CARE controlled NASTF would have not only diminished the interests of many important stakeholders, it also could have raised serious antitrust concerns.

LEGISLATION AND REGULATION

Given the current impasse predicated on CARE's demand for control of NASTF, let me now turn to the legislation before us. I would like to briefly highlight three important issues for committee members to consider. The first is that you will be displacing a working private sector entity made up of market participants and putting the Federal Trade Commission, which has no automotive repair knowledge or background, in control of the flow of information through a new regulatory regime. Second, while recent revisions to the bill struck previous language explicitly providing for private rights of action for car owners, NADA continues to be concerned that private rights of action against automobile manufacturers under state laws will be encouraged by a number of findings in the bill. Third, we still view the legislation as requiring disclosure of information beyond that possessed by a franchised dealer and thus potentially compromising intellectual property rights. Our view on that issue is reinforced by the

fact that it is large parts distributors, not independent repair shops, who are the prime proponents of this legislation.

CONCLUSION

Like the independent repairers at the Automotive Services Association, the National Automobile Dealers Association and its members continue to believe that the current voluntary and cooperative private sector effort remains vastly preferable for the individual service technician than a government command and controlled process. Federal regulation is rarely superior to a private sector system that stakeholders agree works.

In closing, I want to emphasize one final point. This entire issue suffers from the fundamental misperception that automobile manufacturers unduly favor their franchised dealerships. That is simply untrue.

If it were true, manufacturers would not have set up openly available websites for emissions and non-emissions information. If it were true, manufacturers would not be making available to everyone the same training materials franchised dealerships must obtain. If it were true, manufacturers would not be making available to everyone the same manufacturer specific diagnostic tools they require their dealerships to purchase. If it were true, manufacturers would not be providing non-emissions tool information to third party toolmakers at no charge. If it were true, aftermarket providers would not perform 75% of non-warranty repairs.

On behalf of NADA, I appreciate the opportunity to testify and look forward to your questions.